

V. PACKING ATV CHANNELS INTO THE UHF BAND IS NEITHER
FEASIBLE NOR DESIRABLE.

A proposal set forth in the Second Further Notice, at ¶ 17, contemplates that ATV should be implemented eventually as an all-UHF service, and the Sample Table lists all but 17 ATV allotments in the UHF band. Upon full conversion to ATV, even these 17 VHF stations would be required to transfer their ATV operations to the UHF band by switching either to their NTSC UHF channel or, where such a channel would not meet the required ATV-to-ATV spacing requirements or where the station's NTSC signal is also located in the VHF band, to a properly spaced UHF channel vacated by another licensee at conversion. Id. at ¶ 19.

Broadcasters strongly oppose the proposal to pack ATV channels into the UHF band. We should emphasize that this is not a "big-station" issue, since in major markets very few VHF channels will be available for ATV, and an all-VHF table would cause increased interference to existing UHF stations. All segments of the industry and the public would benefit from an intermixed ATV table.

A. UHF Packing Will Reduce ATV And NTSC Service.

Packing all ATV stations into the UHF band will obviously require that ATV stations be spaced more closely together and that ATV stations will be spaced more closely to existing NTSC stations. The result, as demonstrated by the coverage analysis cited above, is certain to be less ATV

coverage and more NTSC interference, especially to existing UHF stations.^{14/}

Interspersing VHF channels throughout a Table of Allotments/Assignments would minimize interference, thereby maximizing ATV coverage and current NTSC coverage. Indeed, the preliminary coverage analysis demonstrates that the "ideal" number of VHF ATV stations is likely to be substantially greater than 17; preliminary estimates conducted by the ATV Advisory Committee indicate that, depending upon the specific system characteristics, the optimal number may be between 100 and 200 stations. And, as with virtually all of the 17 stations listed in the sample Table, these VHF stations will be required for the most part on the periphery of the largest and most congested markets in the country. Once again, the penalty for failing to utilize them will be to deprive service to areas which have greater than average population densities.

^{14/} As noted above, utilization of the full array of allotment principles proposed in the Second Further Notice, including UHF packing, will yield a substantial increase in interference to existing NTSC UHF stations. The Second Further Notice suggests that one means of avoiding such interference will be to require the new ATV stations to operate at reduced power during the "transition" period. Second Further Notice at n. 27. This "solution" does not obviate the loss inherent in the resulting short-spacing; it simply shifts the service area loss from NTSC to ATV. Not only will it reduce total ATV coverage and NTSC service area replication, at least for a very substantial period of time, it will exacerbate the perceived differences in coverage areas and values of the potential ATV channels at each site, increasing the likelihood of licensee disputes.

B. UHF Packing Will Penalize NTSC VHF Stations
And All NTSC Stations Forced To Accept VHF
ATV Assignments.

A UHF-packing plan also will impose substantial cost penalties on any station allotted an ATV VHF channel. These stations will be hit with a regulatory "double-whammy": in the same 15-year period they will be required to construct ATV facilities twice, initially for their VHF channel and then once again upon eviction from that VHF channel at the end of the transition period. On both occasions, new transmission equipment will have to be purchased and staffing resources will be needed to engineer and construct the new facilities. While the cost of equipment is expected to be lower at the end of the transition period due to the economies of scale that will have been gained, the second go-around will almost certainly involve more than constructing network pass-through capability, as is required to meet the Commission's initial construction deadline. Needless to say, requiring ATV VHF stations to switch operations to UHF is also likely to result in viewer confusion and disruption. Zenith Comments at 11.

The burden of complying with the Commission's six-year construction deadline will present a significant challenge to all broadcasters, but an additional requirement that a station must again construct new ATV facilities only nine years later could well prove overwhelming. This will be especially true for public television station licensees, which

are dependent on contributions and governmental appropriations to finance their transition to ATV. The Second Further Notice, at ¶ 19, suggests allowing existing NTSC UHF stations assigned ATV VHF channels to switch their NTSC channels to ATV operation before the conversion date and giving NTSC VHF stations an alternative UHF channel on which to convert. But neither is likely to reduce the cost of conversion. Moreover, early switching by definition will be at a time when there will still be a significant number of NTSC viewers, thus aggravating the expense of switching with a loss of revenues. It is highly unlikely that these negative factors will be offset by the reduction in operating expenses.

The proposed UHF-packing plan would thus pose large and inequitable burdens on those stations assigned ATV VHF channels.^{15/} In addition, NTSC VHF stations will be required to convert to ATV solely on UHF channels, i.e., "off-channel," while at least some NTSC UHF stations may have the option of potentially converting to ATV "on-channel" by switching their

^{15/} A UHF-packing plan will also result in greater costs to broadcasters assigned UHF ATV channels instead of available VHF channels. All other things being equal, the costs of transmitting an ATV signal will be much lower in the VHF band than in the UHF band. The higher transmit power required for UHF transmission will not only add to broadcasters' electricity bills, but could also increase the size and cost of transmitters and antennas and in some cases cause tower loading problems. While VHF channels would not be available in many major markets, they would be available in smaller markets where the costs of ATV implementation are the most difficult for broadcasters to manage.

NTSC and ATV frequencies.^{16/} Second Report and Order at ¶ 56.

C. The Postulated Benefits Of UHF Packing Are At Best Remote And Speculative.

Certain "benefits" are advanced as justifying the enormous costs that would be imposed by a UHF-packing scheme. It would "simplify ATV equipment design" by "removing the need for tuning signals in more than one band", and such "simplifications could be expected to lower the cost of consumer TV receiver system equipment." Second Further Notice at ¶ 17.

The advent of single-band ATV tuners, however, is surely many years away. To begin with, NTSC VHF signals will continue to be transmitted from 40 percent of the existing NTSC stations during the entire conversion period, and 100 percent simulcasting will not be required for at least nine years. Moreover, even under the allotment scheme set forth in the sample Table, the conversion period will feature VHF ATV stations in markets such as Los Angeles, Boston, San Diego, Providence, as well as other major metropolitan areas. Single-band receivers and antennas are consequently at least

^{16/} If a UHF-packing plan is not adopted, VHF NTSC stations could also have the option of switching their NTSC and ATV frequencies at the end of the transition period. Broadcasters agree with the Commission that determining when, as a general matter, such switching should be allowed should "wait until ATV implementation is underway and we have practical experience" with this new service. Second Report and Order at ¶ 57. See also Second Further Notice at ¶ 18 n.24.

15 years away from being a possibility; not only will this benefit be a long time in coming, it is not likely to be large because it will come long after manufacturing economies of scale will have been maximized for ATV equipment.

Nor is UHF packing necessary. The Second Further Notice, at ¶ 8, points out that "the disparity that currently exists between the UHF and VHF bands will be much less significant for ATV service." ATV signals are likely to function far more successfully in the UHF band than do NTSC signals given the transmission properties of the digital ATV signal and the use of signal processing in ATV receivers. Id. See also ATSC Comments at 7 (filed December 19, 1991). Moreover, in the largest markets interference and spectrum constraints dictate that the great majority of ATV channels will be located in the UHF band. Second Further Notice at ¶ 18. The combination of transmission characteristics, properly conceived planning factors and interference limitations will, then, ensure that the current UHF-VHF service disparity will largely disappear even in an optimally mixed UHF-VHF table.^{17/}

^{17/} The Second Further Notice notes that ATV systems will be able to operate at a lower power to cover a comparable NTSC service area. This same observation applies to an ATV table comprised of both UHF and VHF channels.

Propagation studies conducted by Fox indicate that terrain shielding will continue to be a problem in the ATV environment and that VHF translators may be needed in areas
(continued...)

D. ATV Implementation Should Not Be Used As
The Vehicle For Clearing The VHF Band For
Other Spectrum Users.

The Commission has previously "conclude[d] that broadcasters should be permitted to utilize ATV transmission techniques within the existing VHF and UHF bands to the extent that this use can be accommodated and the continued broadcast service to the public is not disrupted, including service to those viewers with NTSC standard receivers." Tentative Decision at ¶ 39. This conclusion was based on the Commission's finding that it was in the public interest to initiate ATV in the existing framework of local broadcasting in order to preserve the unique services broadcasters provide to the public. Id.

This unique service, and the extent and quality of ATV conversion, must not be jeopardized in the illusory pursuit of maximizing the amount of contiguous spectrum that could be reclaimed after full conversion. As set forth above, it simply will not be feasible to pack the entire terrestrial ATV system into the UHF band without severely impairing both ATV and NTSC service and without imposing substantial costs on stations assigned ATV VHF channels. Indeed, for these reasons and after thorough examination, the ATV Advisory Committee has dismissed repacking as a technically viable spectrum

^{17/} (...continued)
with severe terrain. This is yet another penalty for an all-UHF plan.

management option. Preliminary Analysis of VHF and UHF Scenarios -- Part II, ATV Advisory Committee, Planning Subcommittee, Working Party 3, Doc. 0174 (June 1991).

The Commission must also keep in mind that the success of ATV is still an open question. Whether advanced television will take hold in the marketplace, and in what form it may eventually take hold, ultimately will depend on market forces, demand as well as supply. Comments of NTIA at 3 (filed July 17, 1992). For this reason, NTIA and receiver manufacturers have urged the Commission to exercise caution in planning for the possible elimination of NTSC. Id.; Comments of Sony Corporation at 49-55 (filed July 21, 1992); Comments of EIA/ATV Committee at 7 (filed July 16, 1992); Comments of North American Philips Corp. at 9-14 (filed December 20, 1991). Should advanced television not succeed, or ultimately take forms not anticipated today, an all UHF-plan could backfire, leading to additional unforeseen, disastrous results.

VI. OTHER ALLOTMENT/ASSIGNMENT ISSUES

The Second Further Notice raises numerous other issues regarding the ATV allotment/assignment process:

A. ATV Allotment Preference.

The Second Further Notice, at ¶ 21, raises the possibility of giving "a relative preference to new ATV operations over NTSC operations ... where a choice must be

made between providing greater service area for a new ATV allotment or minimizing interference to an existing NTSC allotment" Recognizing that such a preference could cripple NTSC service at a time when NTSC revenues will be critical to a station's ATV implementation, the proposal "would take into account protection of any affected existing NTSC service in actual ATV operations during the transition period" by, for example, limiting the power of ATV transmissions. Id. at ¶ 21 n.27.

Placing such restrictions on ATV operations, however, would create a group of real or imagined "second class" stations, thus enhancing the conflicts among licensees and causing further potential delays in implementation, and hamstringing start-up ATV service. The dilemma of choosing between NTSC and ATV service demonstrates again why the proposed UHF-packing plan is simply not viable. Both UHF and VHF ATV allotments will be necessary to accommodate all existing broadcasters, maximize ATV service areas, and maintain existing NTSC service, all of which will be critical in facilitating the implementation of broadcast ATV. Placing artificial limits on ATV coverage -- or on NTSC coverage -- during the transition period will jeopardize the viability of the new ATV stations and impair the ability of stations to continue to provide service to existing customers.

B. Deleting Un-Applied-For Short-Spaced Allotments.

Broadcasters believe that the proposal to delete any remaining "short-spaced" ATV allotments that have not been applied for by existing broadcasters in the initial three-year application period is premature. Second Further Notice at ¶ 32. See also Third Report and Order at ¶ 17. The vast majority of the short-spaced ATV channels will be located in congested areas with high station concentrations and the consequences of deleting unapplied for allotments may be unusually significant. For example, public television has expressed its concern that deleting the un-applied-for short-spaced allotments may result in the loss of ATV channels for existing public television licensees. Broadcasters believe it would be prudent to reserve judgment on this issue until a more precise estimate can be made of the number and location of short-spaced allotments.

C. ATV-to-Land Mobile Interference Protection Standards.

Broadcasters believe the proposed ATV-to-land mobile interference protection standards are ill-advised and unnecessarily protective of land mobile operations. Second Further Notice at ¶¶ 46-47. The Second Further Notice incorrectly implies that these standards are based on existing interference-protection standards. In fact, the proposed standards are based, inappropriately, on the current land mobile-to-television interference protection standards;

because television is much more susceptible to land mobile interference than the reverse, this standard is grossly overprotective of land mobile operations. In any event, there is virtually no prospect that ATV, with its much lower power levels and more precise adjacent-channel roll off, will create any interference to land mobile operations. ATV will also, of course, be much less susceptible to land mobile interference. Once again, however, it seems prudent to postpone adoption of a specific standard until the development of better system and receiver-performance data.

D. Reallocation Of Channels 14, 15, and 16.

Broadcasters applaud the proposed reallocation of Channels 15 and 16 in Detroit and Channels 14 and 15 in Cleveland. Second Further Notice at ¶ 48. The allocation of these long-vacant channels to ATV will mean appreciable gains in service and reductions in interference in those regions, and will provide much-needed additional resources in the upcoming cross-border negotiations with Canada.

E. Use Of Channels 3 And 4.

Broadcasters also support the Commission's decision to avoid the allotment of both Channels 3 and 4 within the same community wherever possible. Second Further Notice at ¶ 44. This is a sensible step in minimizing the risk of interference between broadcast use of such channels and their use as output frequencies in cable terminal equipment and

VCRs. Technical standards for consumer equipment will have to be developed upon the completion of ATV system testing.

F. Channel 6 Allotments.


To avoid potential interference between ATV operations on Channel 6 and FM radio operations on adjacent channels, the Second Further Notice at ¶ 45, proposes to allot channel 6 for ATV use "only where there is no other readily available allotment opportunity" It also proposes "to apply an appropriate standard similar to that currently specified in the rules to protect against interference between NTSC Channel 6 and FM radio." Id.

As with land mobile interference, the lower power of ATV transmitters and the improved adjacent-channel performance of both ATV transmitters and receivers will greatly reduce Channel 6-FM problems. While Channel 6-FM concerns should be addressed in both the allotment process and establishing appropriate interference protection standards, further investigation is required to determine the precise extent and

nature of such potential interference based on the test data and field-test performance of the proponent ATV systems.

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